

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF WEST VIRGINIA**

WILLIAM RONDELL JONES,

Petitioner,

v.

**Civil Action No. 3:08cv165
(Judge Bailey)**

RANDOLPH COUNTY, WEST VIRGINIA,

Respondent.

OPINION/REPORT AND RECOMMENDATION

The *pro se* petitioner initiated this action on November 3, 2008, by filing a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 and a motion to proceed as a pauper. In the petition, the petitioner challenges his pending state court criminal charges pursuant to the Interstate Agreement on Detainers Act.

It is well established that absent some exceptional circumstances meriting equitable relief, a federal court should refrain from interfering with a pending state criminal proceeding. See Younger v. Harris, 401 U.S. 37, 43-44 (1971); Butler v. Alabama Judicial Inquiry Comm'n, 245 F.3d 1257, 1261 (11th Cir. 2001) ("Younger and its progeny reflect the longstanding national public policy, based on principles of comity and federalism, of allowing state courts to try cases--already pending in state court--free from federal court interference.") (citation omitted). Moreover, § 2254 provides federal habeas relief to a person in custody pursuant to "the judgment of a State court." 28 U.S.C. § 2254(a). According to the petition, the petitioner has not yet been convicted or sentenced. Thus, he is not in custody pursuant to the judgment of a State court.

For these reasons, the claims raised in the petitioner's § 2254 petition are not ripe for federal habeas review and are otherwise barred by the abstention doctrine and the principles of exhaustion and comity. Therefore, the undersigned recommends that the petitioner's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (dckt. 1) be **DENIED** and **DISMISSED without prejudice** from the active docket of this Court and that his motion to proceed as a pauper (dckt. 2) be **DENIED as moot**.

Any party may file, within ten (10) days after being served with a copy of this Recommendation, with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable John Preston Bailey, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

Dated: November 6, 2008.

John S. Kaull

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE